

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Health Policy

3 (Amendment)

4 900 KAR 7:040. Release of public data sets for health care discharge data.

5 RELATES TO: KRS 61.870-61.884, 216.2920, 216.2927, [-] 216.2929

6 STATUTORY AUTHORITY: KRS 194A.050(1), 216.2923(2)(c)[-216.2925(1),
7 (2)]

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2923(2)(c) requires
9 the Cabinet for Health and Family Services to promulgate administrative regulations for
10 its transactions related to KRS 216.2920 to 216.2929~~[publish and make available~~
11 ~~information relating to the health care delivery and finance system that is in the public~~
12 ~~interest]~~. KRS 216.2927 mandates that personally identifying data collected by the
13 Cabinet for Health and Family Services from health care providers not be released to
14 the general public nor be allowed public inspection under KRS 61.870 to 61.884. This
15 administrative regulation establishes the guidelines for distribution and publication of
16 data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient
17 confidentiality and further protecting personally identifying information.

18 Section 1. Definitions. (1) "Cabinet" is defined by KRS 216.2920(2).

19 (2) "Data" means the information collected pursuant to 900 KAR 7:030.

(3) "Encounter-level" means the data record of a single instance of hospitalization, outpatient service, ambulatory surgery, emergency department, or observation stay billing record contained in a data file.

(4) "Health care provider" is defined by KRS 216.2920(5).

(5) "Public" means a person or group not directly responsible for the collection, maintenance, custody, or dissemination of data for purposes of this administrative regulation.

(6) "Report" means a summary or compilation of data disseminated to the public.

Section 2. Encounter-Level Data. Encounter-level data shall be released in an electronic text file and shall include the following data elements ~~[the following standard file format described in the table below]:~~

| <u>Encounter-Level Data</u> [Standard File Format— Data Element Contained in the File if information is available |
|--|
| File Type] |
| Provider ID |
| Quarter <u>and</u> [&] Year of Discharge |
| Patient Gender |
| Patient Age Group |
| Patient Race <u>or</u> [/] Ethnicity |
| Patient Resident County |
| Type of Admission |
| Source of Admission |
| <u>All Diagnoses Available for Each Individual Record</u> |

| |
|--|
| <u>All Procedures Available for Each Individual Record</u> |
| <u>Patient Zip Code</u> [Diagnosis 1 (Primary)] |
| Diagnosis 2 |
| Diagnosis 3 |
| Diagnosis 4 |
| Diagnosis 5 |
| Diagnosis 6 |
| Diagnosis 7 |
| Diagnosis 8 |
| Diagnosis 9 |
| Diagnosis 10 |
| Diagnosis 11 |
| Diagnosis 12 |
| Diagnosis 13 |
| Diagnosis 14 |
| Diagnosis 15 |
| Diagnosis 16 |
| Diagnosis 17 |
| Diagnosis 18 |
| Diagnosis 19 |
| Diagnosis 20 |
| Diagnosis 21 |

| |
|--------------|
| Diagnosis-22 |
| Diagnosis-23 |
| Diagnosis-24 |
| Diagnosis-25 |
| Procedure-1 |
| Procedure-2 |
| Procedure-3 |
| Procedure-4 |
| Procedure-5 |
| Procedure-6 |
| Procedure-7 |
| Procedure-8 |
| Procedure-9 |
| Procedure-10 |
| Procedure-11 |
| Procedure-12 |
| Procedure-13 |
| Procedure-14 |
| Procedure-15 |
| Procedure-16 |
| Procedure-17 |
| Procedure-18 |

| |
|---|
| Procedure 19 |
| Procedure 20 |
| Procedure 21 |
| Procedure 22 |
| Procedure 23 |
| Procedure 24 |
| Procedure 25] |
| Length of Stay |
| Total Charges |
| Discharge Status |
| Payer 1 (Primary) |
| Payer 2 |
| Payer 3 |
| [Diagnostic related group |
| Medicare Severity Diagnostic related group |
| Major Diagnostic Category |
| Diagnosis Version Qualifier |
| Event Code 1 |
| Event Code 2] |
| Do not resuscitate indicator |
| Diagnosis present on admission indicator |

- 1 Section 3. Summary Data. (1) The cabinet shall not release data if KRS
- 2 216.2927 prohibits its release.

(2) The cabinet may include the following data elements, in any combination thereof, for encounter-level, aggregate, and summary report formats:

(a) Diagnoses and procedures, primary, and any other level;

(b) Diagnosis and procedure groupings, including diagnostic related groups, major diagnostic categories, and agency for health care policy and research clinical classification system;

(c) Patient gender;

(d) Age or age grouping;

(e) Discharge status;

(f) Payor category, all levels;

(g) Charge information, total and ancillary;

(h) County of patient residence;

(i) County of provider;

(j) Ancillary department information;

(k) Length of stay, total, and average;

(l) External cause of injury;

(m) Race or ethnicity; or

(n) Mortality rate. Reports including mortality rates shall be adjusted by severity of illness by reputable grouping software, either on a contract basis or by the cabinet.

(3) Data shall not be withheld from the public or another interested party based solely on an unfavorable profile of a provider or group of providers, if the data is deemed reliable, accurate, and sufficiently free of error, as determined by the cabinet and pursuant to 900 KAR 7:030.

1 Section 4. Release of Data. (1) A person or agency shall, as a condition for
2 receiving data from the cabinet, sign an ["Agreement for Use of Kentucky Health
3 Claims Data["]. A person or agency receiving data shall agree to adhere to the
4 confidentiality requirements established in subsection (2) of this section and KRS
5 216.2927.

6 (2) To protect patient confidentiality:

7 (a) A report or summary of data that consists of five (5) or fewer records shall not
8 be released or made public;

9 (b) A person or agency receiving data shall not redistribute or sell data in the
10 original format;

11 (c) A person or agency receiving data shall not redistribute or sell a subset of the
12 data or an aggregate product of the data;

13 (d) Distribution of data received by the cabinet shall be approved by the custodial
14 agency prior to receipt of the data;

15 (e)[(d)] The data collected pursuant to 900 KAR 7:030 shall be used only for the
16 purpose of health statistical reporting and analysis or as specified in the user's written
17 request for the data; and

18 (f)[(e)] A user shall not attempt to link the public use data set with an individually
19 identifiable record from another data set.

20 Section 5. Fees. (1) The cabinet shall charge a fee not to exceed \$1,500 for the
21 purchase of a single copy of an annual, public-use data set.

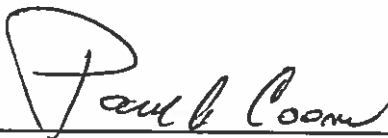
22 (2) A public-use data set shall be available for purchase no later than sixty (60)
23 days after the end of the facility reporting period as established in 900 KAR 7:030.

1 Special requests for data shall be prioritized and completed at the discretion of the
2 custodial agency.

3 Section 6. Incorporation by Reference. (1) "Agreement for Use of Kentucky
4 Health Claims Data", May 2017~~[September 2008]~~, is incorporated by reference.

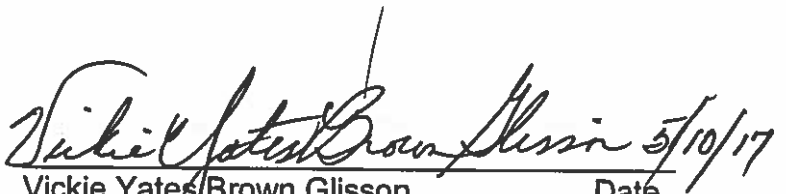
5 (2) This material may be inspected, copied, or obtained, subject to applicable
6 copyright law, at the Cabinet for Health and Family Services, Office of Health Policy,
7 275 East Main Street 4WE, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m.
8 to 4:30 p.m.

900 KAR 7:040



Paul A. Coomes
Executive Director
Office of Health Policy
4/18/17
Date

APPROVED:



Vickie Yates Brown Glisson
Secretary
5/10/17
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on June 21, 2017 at 9:00 a.m. in Conference Suite B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 14, 2017, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding the proposed administrative regulation until June 30, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Administrative Specialist, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, Phone: (502) 564-7905, Fax: (502) 564-7573, email address: tricia.orme@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 900 KAR 7:040

Contact Persons: Diona Mullins, Executive Advisor, Office of Health Policy, Email: diona.mullins@ky.gov, Phone: 502-564-9592

Tricia Orme, Administrative Specialist, Office of Legal Services, e-mail: tricia.orme@ky.gov, Phone: 502-564-7905

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient confidentiality and further protecting personally identifying information.

(b) The necessity of this administrative regulation: This administration is necessary to comply with the content of the authorizing statutes KRS 216.2920-216.2929.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216.2920-216.2929 by establishing the guidelines for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the requirements for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The regulation has been revised to clarify that the encounter-level data shall be released in an electronic text file. The listing of data elements to be included in the encounter-level data was also revised. Language was added to state that a person or agency receiving the data shall not redistribute or sell a subset of the data or an aggregate product of the data. The fee for the data set has been revised to not exceed \$1,500. The "Agreement for Use of Kentucky Health Claims Data", incorporated by reference in this regulation, has been revised to strengthen confidentiality requirements.

(b) The necessity of the amendment to this administrative regulation: The regulation has been revised to clarify the content of the data to be released and to strengthen the confidentiality requirements of the user agreement.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 216.2923 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations for its transactions related to KRS 216.2920 to 216.2929. KRS 216.2927 mandates that personally identifying data collected by the Cabinet for Health and Family Services from health care providers not be released to the general public nor be allowed public inspection under KRS 61.870 to 61.884. This administrative regulation establishes the guidelines for distribution and publication of data collected by the cabinet pursuant to 900 KAR 7:030, while maintaining patient confidentiality and further protecting personally identifying information.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment conforms to the content of the authorizing statutes by clarifying the guidelines for distribution and publication of data collected by the cabinet

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment affects an entity wishing to obtain a public use data set.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: As the data being used to produce the public use data sets is already required to be submitted, no action will be required of regulated entities to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The charge for the data set will not exceed \$1,500.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that obtain the public use data set will have access to data for research and analysis.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The fee for the public use data set will not exceed \$1,500.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The fee for the public use data set will not exceed \$1,500.

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation Number: 900 KAR 7:040

Contact Persons: Diona Mullins, Executive Advisor, Office of Health Policy, Email: diona.mullins@ky.gov, Phone: 502-564-9592

Tricia Orme, Administrative Specialist, Office of Legal Services, e-mail: tricia.orme@ky.gov, Phone: 502-564-7905

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts any entity that elects to purchase the public use data set and the Cabinet for Health and Family Services, Office of Health Policy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.2920-2929.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this amendment.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this amendment. The public use data sets are already produced as part of our normal operations so additional funding will not be required.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES

Office of Health Policy

900 KAR 7:040. Release of public data sets for health care discharge data.

Summary of Material Incorporated by Reference

The "Agreement for Use of Kentucky Health Claims Data", revised May 2017, is being incorporated by reference. The revisions include the addition of the following conditions:

- I will not permit access to data to subcontractors, nor assign or delegate duties described herein to subcontractors without providing written notification to the Office of Health Policy. I will be responsible for the subcontractor's performance, and for meeting all the terms of the agreement. All subcontractors are prohibited from the independent use of the information, statistics, project results, and reports prepared pursuant to this agreement;
- I will not release or permit others to release a report or summary of data without suppressing cells of five (5) or fewer records; and
- I will not redistribute or sell data in the original format and I will not redistribute or sell a subset of the data or an aggregate product of the data.

The revisions include the deletion of the following conditions:

- I will not attempt to use or permit others to use the data to learn the identity of any provider that may be represented in the data;
- I will not contact or permit others to contact providers or persons represented in the data;
- I will not use or permit others to use data concerning individual health care providers
 - for commercial or competitive purposes involving those providers,
 - to determine the rights, benefits, or privileges of individual providers, or
 - to report, through any medium, data that could identify individual providers, either directly or by inference; and
- I will require others in the organization specified below who use the data to sign this agreement and will keep those signed agreements and make them available upon request.

The total number of pages incorporated by reference for this administrative regulation is two (2) pages.